

2. The Department will identify eligible county nursing facilities.
3. The Department will negotiate a total supplementation payment amount with eligible county nursing facilities. The negotiated total supplementation payment amount may equal but will not exceed the Medicare upper limit amount calculated in step 1 above.
4. The Department will select the latest fiscal period for which all eligible county nursing facilities have an acceptable cost report on file with the Department and will sum the total MA allowable costs reported by the eligible county nursing facilities for that fiscal period.
5. The Department will divide the total supplementation payment amount by the total MA costs to derive the supplementation percentage.
6. The Department will multiply each eligible county nursing facility's reported MA costs for the fiscal period selected in step 4 above by the supplementation percentage to determine that county nursing facility's supplementation payment.

J. Exceptional Payment Agreements

Prior to January 1, 1996, exceptional payment agreements provided for the additional services/supplies which included ventilator rental equipment, supplies necessary because of ventilator dependency, respiratory hours, additional nursing hours and intensive head injury programs with extensive physical, speech and occupational therapy to high technology-dependent residents, such as ventilator dependent and head and/or spinal cord injured individuals. The Department will continue to make payment under exceptional payment agreements for residents who were receiving services/supplies under this program prior to the implementation of the case-mix payment system on January 1, 1996 until these services/supplies are no longer needed or desired by the resident; upon 30 day written notice to the nursing facility; or upon the nursing facility's breach of the agreement.

With the implementation of the case-mix payment system, in limited instances, the Department may enter into exceptional payment agreements with participating nursing facilities to make payments in addition to the nursing facilities' case-mix per diem rate for high technology-dependent residents, such as ventilator dependent and head and/or spinal cord injured individuals. To receive exceptional payments for a high technology-dependent resident, a nursing facility must demonstrate to the satisfaction

of the Department that its case-mix per diem rate does not cover the additional exceptional costs that the nursing facility must incur to care for the resident.

If the Department is satisfied that the nursing facility's case-mix per diem rate does not cover the additional exceptional costs related to the care of the high technology-dependent resident and that the resident cannot otherwise obtain appropriate care, the Department may enter into an exceptional payment agreement to pay for additional costs necessary for the care of the exceptional resident. These additional costs are limited to: the rental of equipment and the supplies necessary to care for high technology-dependent residents.

The Department will enter into an individual exceptional payment agreement for each exceptional resident and will negotiate with the nursing facility the additional costs to be paid thereunder on a case-by-case basis.

The Department does periodic physician assessments of each exceptional resident to determine what the resident's current special medical needs are and how these needs can be met.

To receive payments for an exceptional resident, the nursing facility bills its case-mix rate for the resident. The nursing facility also submits a separate invoice each month for items specified in the exceptional payment agreement. The nursing facility must attach documentation to the monthly invoice verifying what special services/supplies were actually received by the resident for the month. The Department reviews the documentation and authorizes payment with the exceptional payment agreement only for services/supplies received by the resident for the applicable month and covered under the exceptional payment agreement.

During the audit, the Department ensures that the nursing facility adjusts its reported costs on the cost report to account for the exceptional reimbursement. Payment by the Department of the rates permitted by the exceptional payment agreement shall be payment in full for additional nursing facility services/supplies (above the customary MA covered services) required and received by the specified resident.

K. Related Provisions

1. Supplement I contains the Department's Chapter 1187 Nursing Facility Service regulations.

2. The RUG-III index scores; peer groups; and the Financial and Statistical Report form (MA-11) are available for review upon request.

The Commonwealth of Pennsylvania has in place a process which complies with the requirements of Section 1902(a)(13)(A) of the Social Security Act.

CHAPTER 1187
NURSING FACILITY SERVICES

- SUBCHAPTER A. GENERAL PROVISIONS
- SUBCHAPTER B. SCOPE OF BENEFITS
- SUBCHAPTER C. NURSING FACILITY PARTICIPATION
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- SUBCHAPTER E. ALLOWABLE PROGRAM COSTS AND POLICIES
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CHAPTER 1187

NURSING FACILITY SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

§1187.1. Policy.

- (a) This chapter applies to nursing facilities that are enrolled in the MA Program.
- (b) This chapter governs MA payments to nursing facilities on the basis of the Commonwealth's approved State Plan for reimbursement.
- (c) The MA Program provides payment for nursing facility services provided to eligible recipients by enrolled nursing facilities. Payment for services is made subject to this chapter and Chapter 1101 (relating to general provisions).
- (d) Extensions of time will be as follows:
 - (1) The time limits established by this chapter for the filing of a cost report, resident assessment data, an appeal or an amended appeal cannot be extended, except as provided in this section.
 - (2) Extensions of time in addition to the time otherwise prescribed for nursing facilities by this chapter with respect to the filing of a cost report, resident assessment data, an appeal or an amended appeal may be permitted only upon a showing of fraud, breakdown in the Department's administrative process or an intervening natural disaster making timely compliance impossible or unsafe.
 - (3) This subsection supersedes 1 Pa. Code §31.15 (relating to extensions of time).

§1187.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Accrual basis - An accounting method by which revenue is recorded in the period when it is earned, regardless of when it is collected, and expenses are recorded in the period when they are incurred, regardless of when they are paid.

Allowable costs - Costs as identified in this chapter which are necessary and reasonable for an efficiently and economically operated nursing facility to provide services to MA residents.

Amortization - administrative costs - Costs not directly related to capital formation which are expended over a period greater than 1 year.

Amortization - capital costs - Preopening and ongoing costs directly related to capital formation and development which are expended over a period greater than 1 year. These costs include loan acquisition expenses as well as interest paid during the construction or preopening purchase period on a debt to acquire, build or carry real property.

Appraisal of nursing facilities - The basis of valuation used to compute capital payments to nursing facilities which involves the combined valuation of buildings, building improvements, fixed equipment, movable equipment, furniture, fixtures, land and land improvements.

Audited MA-11 cost reports - MA-11 cost reports that have been subjected to desk or field audit procedures by the Commonwealth and issued to providers.

Bed cost limitation - The fixed property cost limited by the amount identified in §1187.112 (relating to cost per bed limitation adjustment).

Benefits, fringe - Nondiscriminatory employee benefits which are normally provided to nursing facility employees in conjunction with their employment status.

Benefits, nonstandard or nonuniform - Employee benefits provided to selected individuals, which are not provided to all nursing facility employees in conjunction with their employment status, or benefits which are not normally provided to employees.

CMI - Case-Mix Index - A number value score that describes the relative resource use for the average resident in each of the groups under the RUG-III classification system based on the assessed needs of the resident.

Classifiable data element - A data element on the Federally Approved Pennsylvania Specific Minimum Data Set (PA specific MDS) which is used for the classification of a resident into one of the RUG-III categories.

Cost centers - The four general categories of costs:

- (i) Resident care costs.
- (ii) Other resident related costs.
- (iii) Administrative costs.
- (iv) Capital costs.

County nursing facility - A nursing facility controlled by the county institution district or by county government if no county institution district exists. The term does not include intermediate care facilities for the mentally retarded controlled or totally funded by a county institution district or county government.

Department - The Department of Public Welfare, which is the Commonwealth agency designated as the single State agency responsible for the administration of the Commonwealth's MA Program.

Department of Aging - The Commonwealth agency that, under a memorandum of understanding with the Department, conducts prescreening of target applicants applying for nursing facility services and the screening of MA nursing facility applicants to determine the need for services.

Department of Health - The Commonwealth agency that, under a memorandum of understanding with the Department, conducts certification surveys of nursing facilities in the MA Program.

Depreciation - A loss of utility and a reduction in value caused by obsolescence or physical deterioration such as wear and tear, decay, dry rot, cracks, encrustation or structural defects of property, plant and equipment.

Facility MA CMI - The arithmetic mean CMI for MA residents in the nursing facility for whom the Department paid an MA day of care on the picture date.

Fair rental value - The imputed rent for the equipment, housing and shelter that a nursing facility uses to provide services for its MA residents which serves as the basis of the capital payment.

Federally Approved Pennsylvania (PA) Specific Minimum Data Set (MDS) - One of three components of the Federally designed Resident Assessment Instrument (RAI). The RAI includes the MDS, the Resident Assessment Protocols and Utilization

Guidelines. The MDS is a minimum core of assessment items with definitions and coding categories needed to comprehensively assess a nursing facility resident.

Financial yield rate - The composite Aaa Corporate Bond Yield Average as reported in Moody's Bond Record for the 60-month period ending in March of each year.

Fixed property - Land; land improvements (for example, sewage treatment facilities and parking lots); buildings and their structural components, including detached buildings; (for example, garages, laundry and maintenance buildings); building improvements; and equipment and fixtures affixed to a building or connected to a utility, such as gas, water or electric, by direct hook up (for example, walk-in refrigerators) heat, ventilation and air-conditioning systems.

General nursing facility - A nursing facility that is owned by an individual, partnership, association or corporation and operated on a profit or nonprofit basis. The term does not include intermediate care facilities for the mentally retarded, State-owned facilities or county nursing facilities.

Hospital-based nursing facility - A general nursing facility that was receiving a hospital-based rate as of June 30, 1995, and is:

- (i) Located physically within or on the immediate grounds of a hospital.
- (ii) Operated or controlled by the hospital.
- (iii) Licensed or approved by the Department of Health and meets the requirements of 28 Pa. Code §101.31 (relating to hospital requirements) and shares support services and administrative costs of the hospital.

Independent assessor - An agent of the Department who performs comprehensive evaluations and makes recommendations to the Department regarding the need for nursing facility services or the need for specialized services, or both, for individuals seeking admission to or residing in nursing facilities.

Interest - administrative - The direct actual cost incurred for funds borrowed to raise short-term working capital related to financing of the day-to-day operational activities of the nursing facility.

Interest - capital indebtedness - The direct actual cost incurred for funds borrowed for capital purposes. Examples of capital purposes include acquisition of nursing facilities, equipment and capital improvements.

Intergovernmental Transfer Agreement - The formal document that executes the transfer of funds or certification of funds to the Commonwealth by another unit of government within the Commonwealth in accordance with section 1903 of the Social Security Act (42 U.S.C.A. §1396b(w)(6)(A)).

Investment income - Actual or imputed income available to or accrued by a nursing facility from funds which are invested, loaned or which are held by others for the benefit of the nursing facility.

Limited appraisal - An appraisal conducted for nursing facility additions or deletions to capital of more than \$200,000 or 10% of the nursing facility's existing appraised value, whichever is lower.

MA conversion resident - A nursing facility resident who applies for and meets the eligibility requirements for MA payment for nursing facility services.

MA day of care - A day of care for which the Department pays 100% of the MA rate for an MA resident or a day of care for which the Department and the resident pay 100% of the MA rate for the MA resident's care.

MA-11 - Financial and Statistical Report Schedules (uniform nursing facility cost report) - A package of certifications, schedules and instructions which makes up the comprehensive cost report.

MSA group - Metropolitan Statistical Area - A statistical standard classification designated and defined by the Federal Office of Management and Budget following a set of official published standards.

Medicare Provider Reimbursement Manual (Health Care Financing Administration (HCFA) Pub. 15-1) - Guidelines and procedures for Medicare reimbursement. Formerly HIM-15.

Movable property - Equipment, fixtures and furniture, for example, beds, furniture and office equipment, located within the nursing facility's physical plant that are not affixed to the nursing facility or connected to a utility by direct hook-up.

NIS - Nursing Information System - The comprehensive automated database of nursing facility, resident and fiscal information needed to operate the Pennsylvania Case-Mix Payment System.